IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 23057 of 2007(T)

PETITIONER:

TRICHUR DISTRICT CO-OPERATIVE HOSPITAL
LIMITED, NO.R-306, SHORNUR ROAD, TRICHUR,
REPRESENTED BY THE SECRETARY.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

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1. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), TRICHUR.

2. LALKAR.P., VAZHAPPILLY HOUSE,
KAMATH LANE, POTHOLE-POST,
THRISSUR DISTRICT.

R1 BY GOVT. PLEADER SMT. ANU SIVARAMAN.
R2 BY ADV. SRI. M. SASINDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 23057 of 2007

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Dated this the 8th day of August, 2007

JUDGMENT

Petitioner has approached this court with the following prayers:

i) Issue a writ in the nature of certiorari calling for the records leading to Ext. P4 and to quash the same.

ii) Issue a writ declaring that the notification Ext.P2 in conformity with the statutory requirement and for valid in all respect.

iii) issue a writ declaring that the order passed as per Ext.P4 is without conducting the post to which the 2nd respondent could apply and the same is the result of non application of mind.

Case of the petitioner is as follows:

2. Petitioner is a Co-operative Society, which is running a hospital with 250 beds. Ext.P1 is the approved staff list. There are only 16 Nurses as of now. Out of 16, five of them are on leave and the hospital is in dire necessity of Staff Nurse. Accordingly a paper advertisement was given inviting applications for the post of Staff

Nurse. In Ext.P2 it is stated that the selection and appointment would be as per the provisions of the Act and the Rules. It is clear that Section 80 of the Act is also applicable. When that be so, the mandate of sub section (4) of Section 80 cannot be bypassed. Petitioner received 70 applications for the post of Staff Nurse and 58 appeared for the written test. Examination was conducted by an outside agency with vast experience. It is also stated that after the introduction of sub section (4) of Section 80 more than 10% posts were given in favour of SC/ST. In this selection also reservation is followed. It is stated that further steps were fixed on 28.7.2007 after the written test on 4.7.2007. It is while so that the petitioner received copy of Ext.P3 judgment. The direction in Ext.P3 was so handy for the Joint Registrar, who passed Ext.P4 staying the selection process. Petitioner also relies on Ext.P5 judgment. The events leading to Ext.P5 judgment would show that the authorities have taken hostile attitude even when Society is providing medical facility and employment opportunity as a whole. The case is

that there is no infirmity with Ext.P2 notification. It is the further case of the petitioner that the second respondent who was the writ petitioner in Ext.P3 judgment had not applied in response to Ext.P2 notification. He has no case that he is qualified to apply for the post of Staff Nurse or Lab Technician. He does not have a case that he is an ex-service man and the only post to which he can apply is the post of Cleaner subject to the prescription of qualification. There cannot be any public interest litigation for selection and appointment of staffs in a Co-operative Society.

3. I heard learned counsel for the petitioner, the learned Government Pleader and counsel for the second respondent. Learned Government Pleader points out that Ext.P4 is only an interim direction and it is only a final decision in the matter which can be taken. I feel that this is a case where the writ petition can be disposed of directing the first respondent to take a decision as expeditiously as possible in view of the great urgency pressed by the petitioner.

The writ petition is disposed of directing the first respondent to consider and take a final decision in the matter with an opportunity of hearing to the petitioner and the second respondent. In view of the urgency pressed, the petitioner and the second respondent will be present before the first respondent at 11 a.m on 14.8.2007 and a final decision in accordance with law will be taken on or before 20.8.2007. I leave open all the contentions of the petitioner.

(K.M. JOSEPH, JUDGE)

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